Chicago, etc., R. Co. v. Chicago, 174 Ill., 439; *Mills v. City of San Antonio,* 65 S. W., 1121; *City of Nevada v. Eddy,* 123 Mo., 546. Nor can an ordinance be repealed or modified by resolution, unless the substance of the ordinance is such that it originally might have been given valid effect if put in the form of a resolution. *San Antonio v. Micklejohn,* 89 Tex., 79. The reasoning of these cases, though not directly touching upon the identical proposition of the principal case, tends to confirm the soundness of its holding, and makes more plain the tendency of the Courts to regard proceeding by resolution on the part of a city council as ineffectual when the charter can be understood in any reasonable way as calling for proceeding by ordinance.

OFFICERS—APPOINTMENT—REMOVAL—POWER OF GOVERNOR.—STATE V. RHAME, 75 S. E., 881 (S. C.).—*Held,* that the power of removal from office by the Governor is not incident to the power of appointment where the term of office is fixed by statute. Watts, J., and Gage, Cir. J., *dissenting.*

It may be stated generally, that where the power of appointment is conferred in general terms and without restriction, the power of removal, in the discretion and at the will of the appointing power, is implied and always exists unless restrained and limited by some provision of law. *People v. Robb,* 126 N. Y., 180; *Houseman v. Com.,* 100 Pa., 222; *Town of Davis v. Filler,* 47 W. Va., 413. By other Courts the proposition is stated that where the tenure of office is not fixed by law, and no other provision is made for removals either by the Constitution or by statute, "it is a sound and necessary rule to consider the power of removal as incident to the power of appointment." *Ex parte Hennan,* 13 Peters (U. S.), 230; *Patton v. Vaughan,* 30 Ark., 211; *State v. Dahl,* 140 Wis., 301. The power of arbitrary removal is to be limited to these circumstances, however, and if the tenure is fixed by law, the appointing power cannot arbitrarily remove him. *Collins v. Tracy,* 36 Tex., 546; *People v. Hill,* 7 Cal., 97; *State v. Chatburn,* 63 Ia., 659. A general power to remove cannot be implied as a consequence of the power to appoint where the statute gives express authority to remove on certain specific grounds. *People v. Treas. of Ingham County,* 36 Mich., 416. Nor can it be implied where the power of appointment by one person is dependent on the precedent or concurrent actions of other persons. *Carr v. State,* 111 Ind., 101. The power of amotion from office is not a judicial but an administrative power although it be exercised in a judicial manner. *State v. Dahl,* 140 Wis., 301. It may be vested elsewhere than in the appointing power; *People v. McAllister,* 10 Utah, 357; and it may be vested in the Governor alone although the appointment is made by and with the consent of the Senate. *Wilcox v. People,* 90 Ill., 196. It is a common provision of State governments that the Governor shall have the power to remove for cause not only appointive but elective officers, and this is clearly within the authority of the sovereign power. *People v. Whitlock,* 92 N. Y., 191. In the case of the President of the United States it has been held that by reason of the construction placed by

Congress upon the Constitution, he is to be regarded as possessing the power to remove an officer appointed by him and confirmed by the Senate, who by law has a fixed term. *Parson v. United States,* 167 U. S., 324. And a similar rule has been announced as to the power of the Governor under certain State Constitutions. *Harman v. Harwood,* 58 Md., 1. Yet the holding of the principal case is supported by the clear weight of authority; *People v. Jewett,* 6 Cal., 291; *Bruce v. Matlock,* 86 Ark., 555; *Territory v. Ashenfelter,* 5 N. M., 85; despite the fact that we have the anomalous situation of (in the words of one of the dissenting judges) "the created being greater than the creator".

RAPE—EVIDENCE—CHARACTER OF FEMALE.—STORY V. STATE, 59 SOU., 480 (ALA.).—*Held,* that in prosecutions for rape, where nonconsent is an element of the offense, and in which the chastity of the woman may be brought into question, the character of the prosecutrix may be impeached, but by evidence of her reputation in that respect only, and not by proof of specific acts.

The weight of American authority is in accord with the case under discussion and holds that want of chastity on the part of the prosecutrix in an action of rape must be shown by general reputation and not by proof of specific acts. *Pleasant v. State,* 15 Ark., 624; *Comm. v. Regan,* 105 Mass., 593. And evidence of such reputation must be confined to the time prior to the alleged rape. *State v. McDonough,* 104 Iowa, 6; *State v. Forshener,* 43 N. H., 89. There is, however, this exception to the general rule, that individual acts with the defendant, prior to the alleged crime, may be proved, as it tends to show consent; *People v. Mathews,* 139 Cal., 527; *State v. Cook,* 65 Iowa, 560; and that general immoral character and habits of the prosecutrix may be produced in evidence to the extent of showing that she was a common prostitute. *Brown v. State,* 72 Miss., 997; *Titus v. State,* 7 Baxt. (Tenn.), 132. In some States, however, it is held that the question of character may be affected by specific acts of intercourse, if proven, though committed with other persons than the defendant; *People v. Benson,* 6 Cal., 221; *Brown v. Comm.,* 102 Ky., 227 (overruling, 93 Ky., 578); *People v. Abbot,* 19 Wend. N. Y., 192; *State v. Patterson,* 88 Mo., 88 (overruling, *St. v. Brassfield,* 81 Mo., 151); and that the prosecutrix may be compelled to answer on cross-examination as to whether she had intercourse with another at or about or before the time of the act alleged. *State v. Hollenbeck,* 67 Vt., 34. It seems a harsh rule to allow evidence of past immoral acts to be introduced in such a case, without taking circumstances into consideration. If a woman should reform and become of such good character that her later seduction would furnish grounds for an action for rape, she then being chaste in contemplation of law, *State v. Thornton,* 108 Mo., 640; *Patterson v. Hayden,* 18 Iowa, 372; evidence of her immoral acts before her reformation should not be admitted. The principal case lays down the better and more generally accepted rule on this subject.